

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on February 14, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Debby Barrett (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. Steven Gallus (D)
Rep. Donald L. Hedges (R)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. George Golie (D)
Rep. Jim Keane (D)

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 502, HB 506, HB 522, HB 524, 02/14/01.
Executive Action: HB 461, HB 466, HB 319, HB 502.

EXECUTIVE ACTION ON HB 461

Motion: REP. HEDGES moved that HB 461 DO PASS.

Discussion:

Leanne Kurtz explained amendment for HB 461 in reference to DD214. **EXHIBIT**(trh37a01).

Motion/Vote: REP. DEVLIN moved that AMENDMENT FOR HB 461, #HB046101.ALK DO PASS. Motion carried 15-0.

Rep. Gallik motioned for an amendment on Page 3, Line 16, all of sub-section (9), section 61-3-332, be struck from the bill.

Motion/Vote: REP. GALLUS moved that HB 461 DO PASS AS AMENDED. Motion carried 18-0.

EXECUTIVE ACTION ON HB 466

Motion: REP. DEVLIN moved that HB 466 DO PASS.

{Tape : 1; Side : A; Approx. Time Counter : 16.4}

Motion/Vote: REP. MATTHEWS moved that HB 466 BE TABLED. Motion carried 13-5 with Gallik, Gallus, Golie, Juneau, and Smith voting no.

HEARING ON HB 502

Sponsor: Rep. Robert Story, HD 24.

Proponents: none.

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

Rep. Story said this bill would be an exemption from the gross vehicle weights and axle weights for hay grinders that are being pulled. The problem is these units are fairly large and a few companies make custom hay grinders that travel around the state. The problem could be solved by putting more tires on the units, but that causes more problems, by putting them over the 26,000 pound gross weight which then requires the drivers to have CDL's

and operate by the Federal Standards. This then limits them to 10 hours of work and driving per day.

Proponents' Testimony: none.

Opponents' Testimony: none.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 22.1}

Rep. Golie asked **Rep. Story** if hay grinders are towed, does the driver have to have a CDL. **Rep. Story** said they don't as long as the total weight of the vehicle is under 26,000 pounds or if they are not crossing state lines.

Rep. Steinbeisser asked **Rep. Story** if the combination of the vehicle and hay grinders are overweight at times. **Rep. Story** said generally they are not overweight on the rear pickup axle, and most of them are fifth wheel hookups, and most of the weight is on the trailer axles.

Closing by Sponsor:

Rep. Story said he urges a Do Pass on HB 502.

EXECUTIVE ACTION ON HB 502

Motion/Vote: REP. ADAMS moved that HB 502 DO PASS. Motion carried 17-1 with Smith voting no.

HEARING ON HB 506

{Tape : 1; Side : A; Approx. Time Counter : 27.2}

Sponsor: Rep. Roy Brown, HD 14.

Proponents: Susan Brockie, Self; Mike Brockie, Self; Jon Metropoulos, Farmers Insurance Group and National Assoc. of Independent Insurers; Jacqueline Lenmark, American Insurance Association and Montana Health Systems; Greg Van Horssen, State Farm Insurance Company.

Opponents: Ed Maronick, President of Montana Contractors Association; Eugene Fenderson, MJH&HE; Russ Cravens, Qwest Communications.

Informational Witnesses:

Gary Gilmore, Montana Department of Transportation.

Opening Statement by Sponsor:

Rep. Brown said this bill is at the request of a family from Billings, Mt., the Brockie Family. This bill involves an act prohibiting leaving highway construction vehicles and equipment in a construction clear zone. He said something needs to be done to keep unscrupulous contractors from cutting corners that cause deadly accidents. **EXHIBIT(trh37a02)**.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 0.3}

Susan Brockie talked about her son **Aric Brockie** who was killed on a Montana Highway when his car veered off the road and hit a generator operated sign board. She said medians and shoulders of roads are to be used to protect cars. She said contractors do not have any financial stake in abiding by the Federal and State rules they agreed to when they sign contracts to work on our highways. Some Contractors do not put safety as a factor while they are working on roads.

Mike Brockie said the neglect of a contractors legal obligation with the State of Montana has changed their lives forever. He said the Contractors Association has not done anything to encourage their contractors to be more responsible. He said the Highway Department has also done nothing to alleviate the conditions that caused his son's death. The statutes in effect today, state that contractors have to remove all highway construction equipment off of the median strip and off of the shoulder, that pertains to all highway construction under Federal jurisdiction. He handed in letters of support. **EXHIBIT(trh37a03)**, **EXHIBIT(trh37a04)**.

Jon Metropoulos said he is here on behalf of Farmers Insurance Group and National Association of Independent Insurance. He said they support HB 506.

Jacquiline Lenmark said they support HB 506 because this bill has the intent and effect of enhancing highway safety for travelers and workers on the highway.

{Tape : 1; Side : B; Approx. Time Counter : 20.8}

Greg Van Horssen said they support HB 506.

Opponents' Testimony:

Ed Maronick said they oppose this bill for various reasons such as practicality. This would be a big financial burden on contractors setting equipment up and taking equipment down every day. He said the penalty does not fit the crime, as it is a \$5,000 fine and the contractor would be out of business for 5 years.

Eugene Fenderson said they oppose HB 506.

Russ Cravens said they had concerns on what equipment would be removed everyday and what is involved with their company pertaining to this bill.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 1.1}

Rep. Bookout-Reinicke asked **Rep. Brown** if it would be possible for the Department of Transportation to issue exception permits for the cranes to stay in place. **Rep. Brown** said he could look at an amendment for this, but almost always, in situations with cranes, the Department of Transportation or the contractor installs cement blocks around the cranes and this solves the problem.

Rep. Gallik asked **Rep. Brown** if he has looked at the potential impact on cost for highway construction if this legislation passed. **Rep. Brown** said it would be hard to determine what the cost would be.

Rep. Hedges asked **Mr. Gilmore** what the current highway safety standards are in regard to highway construction. **Mr. Gilmore** said they provide work zone traffic control for all construction activities on the roadway or within the clear construction zone and other specified areas. Also, to store construction equipment, materials and debris at least 10 feet from the guard rail or outside the clear zone.

{Tape : 2; Side : A; Approx. Time Counter : 14.5}

Rep. Gallik asked **Mr. Brockie** in Section 4 of New Section 1, Line 28, pertaining to contracting companies whose gross negligence in violation of Sub-section 2, what is the difference between gross negligence and regular negligence. **Mr. Brockie** said if the courts finds someone negligent, he would consider that gross negligence.

Chairman Somerville said on Page 1, Line 22, the construction worker may not park a private vehicle within a clear zone. He said, in a lot of cases, a right-of-way is 100 feet or 200 feet in some cases on a four lane highway. He said only two lanes of traffic could be used and it seems like a harsh restriction to have the workers find another location to park this equipment. He asked **Mr. Brockie** if there was any way to relax the rules during the work hours and when flaggers are up and allow workers to park in the clear zone. **Mr. Brockie** said this is done to protect the public when the construction site is not manned and no slow down in traffic.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 26}

Rep. Brown said if contractors have equipment they are using on a construction site, there is not a problem with this bill. If the contractors are not using the equipment and will leave it over night, the equipment should be moved. He urges a Do Pass on HB 506.

HEARING ON HB 522

Sponsor: Rep. Gail Gutsche, HD 66.

Proponents: Colleen McCarthy, Mayor for City of Helena; Lindsay Bayuk, C.R. Anderson School; Tim Davis, Montana Smart Growth Coalition; Judy Smith, Self; Paul Whiting, Self; Linda Stoll, Montana Local Health Officers Group and Montana Association of Planners; Kathy Harris, Self; Paul Reichert, Self; Bob Vogel, Montana School Board Association; Bill Cooper, Office of Public Instruction; Andrea Clark, Missoula in Motion; Janet Scott, Self.

Opponents: none.

Informational Witnesses: Gary Gilmore, Montana Department of Transportation; Michael Spence, Medical Doctor in Montana.

Opening Statement by Sponsor:

Rep. Gutsche said this bill is about establishing safe routes to school. She said this bill also provides a program to increase the safety of children walking and biking to school.

EXHIBIT(trh37a05).

Proponents' Testimony:

Colleen McCarthy said some of the dilemmas in trying to resolve this issue were that in the mid 1990's, when the Community Transportation Enhancement Project money was available, there was a project in Helena brought forth and approved by their local committee and Montana Department of Transportation, to fund sidewalks around Helena Middle School. The problem with the CTEP funding was it required a 13 to 21% match. They went door to door in neighborhoods to contribute to that match, but could not get more than 50% of people to pay a portion of that match. Some people did not have the money to support it. This bill would provide the funding to put in the sidewalks.

{Tape : 2; Side : B; Approx. Time Counter : 7.4}

Lindsay Bayuk said they are concerned about the lack of sidewalks around their school, for safety reasons for the students.

Tim Davis said a happy, healthy community has kids who are able to walk or ride bikes safely. He said there are many schools around the State of Montana that do not have safe routes for kids to get to school. He urges a Do Pass on HB 522.

Judy Smith said kids are being bused a few blocks because there are no safe routes to school. She appreciates consideration of HB 522.

Paul Whiting said he supports HB 522.

Linda Stoll said they support HB 522. She also has testimony to support this bill from Joan Miles, Lewis and Clark City-County Health Department. **EXHIBIT(trh37a06)**.

Kathy Harris said she supports HB 522.

{Tape : 2; Side : B; Approx. Time Counter : 15.1}

Paul Reichert said he supports HB 522.

Bob Vogel said school safety is a concern of MSBA and the members, as children ride their bikes or walk to school.

{Tape : 2; Side : B; Approx. Time Counter : 26.1}

Bill Cooper said they support HB 522.

Andrea Clark said they are a public and private agency in the Missoula area working to develop programs that address pollution and air traffic problems. She showed pictures of the program, called The Walking School Bus. **EXHIBIT(trh37a07)**.

Marga Lincoln said she supports this bill for safe routes to school and to build sidewalks, bike paths and traffic projects in schools. **EXHIBIT(trh37a08)**. She handed out papers on how the money would be distributed. **EXHIBIT(trh37a09)**. She also handed out a map of the Transportation Commissioners Districts. **EXHIBIT(trh37a10)**.

Janet Scott said she and **Linda Smith** support HB 522. **EXHIBIT(trh37a11)**.

Bruce K. Messinger, Superintendent of Helena Public Schools sent in a letter of testimony supporting HB 522. **EXHIBIT(trh37a12)**.

Opponents' Testimony: none.

Informational Witnesses' Testimony:

{Tape : 3; Side : A; Approx. Time Counter : 9.3}

Gary Gilmore said this new program would require a lot of additional staff, also CTEP has money available for this project. The money to be used is from the section 152 funds, which is for hazard elimination. There is a bike pedestrian co-ordinator in the Department, who is available to work with local government, counties, school districts, etc. to try to assist them.

Michael Spence gave information regarding youth with the aspects of physical activity and overweight issues. **EXHIBIT(trh37a13)**.

Questions from Committee Members and Responses:

Rep. Golie asked **Mr. Gilmore** how much one cent of fuel tax raise in Montana for one year. **Mr. Gilmore** said between 5 and 6 million dollars.

{Tape : 3; Side : A; Approx. Time Counter : 16.9}

Rep. Price asked **Ms. Lincoln** to explain what this program would do as opposed to the Transportation Enhancement Program. **Ms. Lincoln** said, in talking to people with Montana Department of Transportation, for Enhancement projects, safety is not an issue of top priority and they are not necessarily enhancing safety.

Rep. Price asked **Rep. Gutschie** if this money would be distributed evenly between the five Transportation Commissioners' Districts. **Rep. Gutschie** said on Page 2, Line 16 of the bill it states how these funds will be allocated, based on District needs and proportionally distributes it.

Chairman Somerville asked **Mr. Gilmore** if traffic calming projects are currently in law. **Mr. Gilmore** said, not that he is aware of, it has become a current term in the industry lately.

Chairman Somerville asked **Mr. Gilmore** if CTEP money is currently being used for driver education. **Mr. Gilmore** said this bill specifically uses section 152 money. **Chairman Somerville** also asked who sets the priorities for the CTEP funds. **Mr. Gilmore** said they are set by the Local Governments. **Chairman Somerville** also asked if there is a back log of bike paths around schools within the CTEP Program. **Mr. Gilmore** said he is not aware of a back-log in CTEP nominations, in terms of funding.

Closing by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 25.3}

Rep. Gutsche said this bill does allow for local control. It allows any school district to ask for and receive currently existing funds if they are in need of bike paths or sidewalks or traffic calming devices. She said this is existing money that they are asking for, one million dollars represents one percent of one quarter of Montana Department of Transportation's budget. She urges support of HB 522.

HEARING ON HB 524

Sponsor: Rep. Jim Keane, HD 36.

Proponents: LeRoy Matthews, Crash Repair Center, Inc.; Bob Gilbert, Montana Tow Truck Association and Montana Association of Dismantlers and Recyclers; Gordon Morris, Montana Association of Counties.

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

{Tape : 3; Side : B; Approx. Time Counter : 0.3}

Rep. Keane said this bill increases the special junk vehicle disposal fee from 50 cents to 65 cents; providing that 15 cents of the special junk vehicle disposal fee be used for the exclusive purpose of reimbursing the hired removal of abandoned vehicles.

Proponents' Testimony:

LeRoy Matthews said he supports HB 524. **EXHIBIT(trh37a14)**.

Margo Frownfelter of Bolster's Towing sent in testimony supporting HB 524. **EXHIBIT(trh37a15)**.

Bill Wise, Drummond Towing sent in testimony supporting HB 524. **EXHIBIT(trh37a16)**.

Bill Sparr of Sparr's Towing and Automotive sent in testimony supporting HB 524. **EXHIBIT(trh37a17)**.

Bob Gilbert said, under Montana law, when there is an abandoned vehicle, law enforcement calls for removal from the roads because of safety hazards. The tow person takes that vehicle to the County Sheriff and the Sheriff pays him for the tow and that vehicle is put into the County Yard. A portion of the junk vehicle fees should pay \$70.00 a tow, which is a portion of what that tow is. He said all they are asking is a small increase in fees on junk vehicles to have a dedicated stream of money that will help remove those vehicles off the highways to provide more safety in the State of Montana.

Gordon Morris said he supports this bill, but he recommends making the effective date July 1, 2001.

Opponents' Testimony: none.

Questions from Committee Members and Responses:

{Tape : 3; Side : B; Approx. Time Counter : 6.8}

Chairman Somerville asked **Mr. Gilbert** to explain the current junk vehicle program. **Mr. Gilbert** said this program was designed to remove junk vehicles from the roadsides and the waysides in the State of Montana that created eyesores. He said there was a fee put on vehicle registration and re-registration, and also titles and new titles, to clean those vehicles off the by-ways and back-ways of Montana. Then those vehicles are crushed periodically and from the sale of that scrap iron, the program received the money to help fund it. Unfortunately, the price of steel went from \$48.00 a ton to \$8.00 a ton, so the program is in trouble.

Rep. Balyeat asked **Mr. Gilbert** what the difference is between the 50 cent junk vehicle tax and this 50 cent add-on tax, if they are both used to get rid of junk vehicles. **Mr. Gilbert** said no, the difference between junk vehicles and abandoned vehicles is, junk vehicles are eyesores that are scattered around the country and

abandoned vehicles are those that do not run anymore, and the owner takes off the license plate and takes the registration, and the car is left there.

{Tape : 3; Side : B; Approx. Time Counter : 19.9}

Rep. Golie asked **Mr. Gilbert**, on a local level does the counties take care of the junk vehicle program. **Mr. Gilbert** said most counties have a junk vehicle program, they pick up the vehicles and then send a voucher to the State of Montana, who then pays them out of the junk vehicle fund.

Rep. Golie asked **Mr. Gilbert** if the counties on a local level, have only one person that tows all the junk vehicles. **Mr. Gilbert** said normally the counties contract to other counties, because it creates money for the smaller counties.

Closing by Sponsor:

{Tape : 3; Side : B; Approx. Time Counter : 26.9}

Rep. Keane said he encouraged a Do Pass on HB 524 to keep Montana Highways beautiful.

Motion: REP. GOLIE moved TO RECONSIDER HB 319.

Motion/Vote: REP. GOLIE moved that HB 319 DO PASS AS AMENDED. Motion carried 11-7 with Barrett, Devlin, Hedges, Matthews, Price, Steinbeisser, and Waitschies voting no. **EXHIBIT**(trh37a18).

Rep. Gallus spoke to the committee about taking HB 67 off the table for the purpose of an amendment that would take off all the language in the bill that has anything to do with the passenger.

Motion/Vote: REP. GALLUS moved that HB 67 BE TAKEN OFF THE TABLE FOR PURPOSE OF AMENDMENT DO PASS. Motion failed 6-12 with Balyeat, Gallik, Gallus, Golie, Juneau, and Keane voting aye.

ADJOURNMENT

Adjournment: 6:15 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT (trh37aad)